

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>BENONI AMPONSAH, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 1:14-cv-03314-ODE</b>
	)	
<b>DIRECTV, LLC, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

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**PLAINTIFFS' CONDITIONAL MOTION FOR TIME WITHIN WHICH TO  
SEEK LEAVE TO AMEND SHOULD COURT GRANT DEFENDANTS'  
MOTION TO DISMISS**

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Plaintiffs hereby request that the Court, should it grant Defendant's motion to dismiss, permit Plaintiffs thirty (30) days to file a motion for leave to amend pursuant to Rule 15(a)(2). This motion is submitted out of an abundance of caution and in light of precedent holding that merely including a request for leave to amend within a responsive brief may not be sufficient to preserve the request. *See Wagner v. Daewoo Heavy Indus. Am. Corp.*, 314 F.3d 541, 542 (11th Cir. 2002).

In support, Plaintiffs state that they have not previously amended the operative complaint, and that such amendment would not be futile. Given the judicial preference for resolving claims on their merits, Plaintiffs therefore request

that, if the Court grants Defendants' motion to dismiss, the Court simultaneously permit Plaintiffs to cure any deficiencies the Court may identify by allowing Plaintiffs thirty (30) days within which to seek leave to amend their Complaint pursuant to Rule 15(a).

Dated: February 23, 2015

Respectfully submitted,

**LAW OFFICES OF DAVID A.  
BAIN, LLC**

*/s/ David A. Bain*

By \_\_\_\_\_

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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1C**

The undersigned hereby certifies that the foregoing brief was prepared in Times New Roman, 14 point font, as approved in Local Rule 5.1C.

  
\_\_\_\_\_  
*Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on this day I have electronically filed the foregoing **PLAINTIFFS' CONDITIONAL MOTION FOR TIME WITHIN WHICH TO SEEK LEAVE TO AMEND SHOULD COURT GRANT DEFENDANTS' MOTION TO DISMISS** with the Clerk of the Court using the CM/ECF system, which will automatically send an e-mail notification of such filing to all attorneys of record.

Dated this 23<sup>rd</sup> day of February, 2015.

/s/ David A. Bain

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